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Commissioner for Patents
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on June 14, 2004

Date of Deposit

Jonathan P. Taylor, Ph.D., Reg. No. 48,338

Name of applicant, assignee or
Registered Representative

[Signature]
Signature
6/14/04

Date of Signature

Our Case No. 659/1770

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Daniel Hoo et al.)	
)	Examiner Jill M. Gray
Serial No. 10/664,342)	
)	
Filing Date: September 17, 2003)	
)	
For WET ROLL HAVING UNIFORM)	Group Art Unit No. 1774
COMPOSITION DISTRIBUTION)	

PETITION TO ACCORD FILING DATE PURSUANT TO 37 CFR 1.53(e)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-4150

Dear Sir:

In reply to the Notice of Incomplete Nonprovisional Application dated May 10, 2004, Applicants hereby petition that the items listed in the Notice were submitted to and were received by the U.S. Patent and Trademark Office as part of the nonprovisional application filing of September 17, 2003. Applicants further petition that this application should be accorded a filing date of September 17, 2003.



Submitted herewith are the following documents:

- 1) Check for \$130.00 for the petition fee, pursuant to 37 CFR 1.17(h);
- 2) Copy of Response to Notice of Incomplete Nonprovisional Application, submitted on June 14, 2004 under separate cover;
- 3) Copy of entire submission of Divisional Application filing of September 17, 2003; and
- 4) Copy of return postcard from the Divisional Application filing of September 17, 2003, bearing the stamp of the Office of Initial Patent Examination (OIPE);

REMARKS

The Notice of Incomplete Nonprovisional Application, dated May 10, 2004, asserts that a filing date has not been accorded to this application. A copy of this Notice is included in the attached copy of the Response to Notice of Incomplete Nonprovisional Application. In support of this assertion, the Notice states that: a) drawings were not included in the application filing, and b) the Declaration was incomplete, missing the signature of inventor Daniel Hoo.

Applicants respectfully traverse this assertion, as these items were included in the papers submitted as part of the Divisional Application filing of September 17, 2003. Moreover, these items were received by the Office of Initial Patent Examination (OIPE) at the U.S. Patent & Trademark Office as part of this application filing. The attached copy of the return postcard bears the stamp of the OIPE, dated September 17, 2003, acknowledging receipt of all the contents listed on the postcard. These contents include a complete set of drawings and a fully executed Declaration.

With respect to the Drawings, Applicants point out that the drawings in the present application were actually provided in two separate forms. First, the application filing included a Submission of Formal Drawings, which contained 10 sheets of formal drawings for Figures 1-15. The Submission of Formal Drawings and the 10 sheets of formal drawings are specifically listed on the return postcard. Second, the original drawings from the prior application were included with the copy of the prior application.

This is reflected in the Request for Filing a Continuing Patent Application, submitted as part of the application filing. Item 1 of this Request notes the inclusion of 11 sheets of drawings in addition to the 33 pages of application.

Applicants further point out that the Preliminary Amendment included as part of this application filing (and listed on the return postcard) included an amendment to the specification that expressly incorporates the prior application by reference. This incorporation by reference includes the drawings in the prior application. Even if a copy of the drawings had not been submitted, any drawings "necessary for the understanding of the subject matter sought to be patented" were effectively included in the present application by way of the incorporation by reference. Since the other item listed in the Notice, the executed oath or declaration, is not required for a filing date under 37 CFR 1.53(b), the incorporation by reference of the prior application provides at least the minimum filing requirements for the according of a filing date as of the "Date In" date on the Express Mail mailing label (EL 835293200 US for the September 17, 2003 application filing).

With respect to the Declaration, Applicants point out that the signature of inventor Daniel Hoo appears on the first page of the Declaration. Due to the presence of co-inventors in multiple locations, multiple copies of the Declaration document were submitted. These copies differed only in the dated signatures present. The signature of Daniel Hoo, dated November 13, 2001, appears on the first and fourth pages of the combined Declaration document. The signature on the fourth page is a facsimile copy of the signature on the first page. Referring again to the Request for Filing a Continuing Patent Application, submitted as part of the application filing, item 2 of this Request notes the inclusion of a copy of the Declaration filed in the prior application.

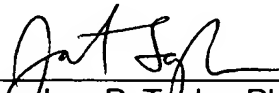
In accordance with MPEP § 503, which states that "[a] postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO," Applicants respectfully request that the present petition be granted.

Applicants respectfully request that the petition fee be refunded at such time as the present petition is granted, as required by MPEP § 601.01(d).

The Commissioner is hereby authorized to charge any fees required to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

June 14, 2004



Jonathan P. Taylor, Ph.D.
Registration No. 48,338
Agent for Applicant


BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200



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Serial No.
Applicant: **DANIEL HOO ET AL.**
Client/Matter No.: **659/1770**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

22278 U.S. PTO
10/664342

09/17/03

Please acknowledge receipt of the below identified:

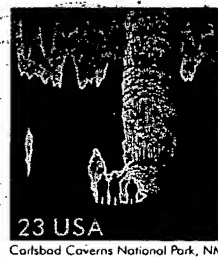
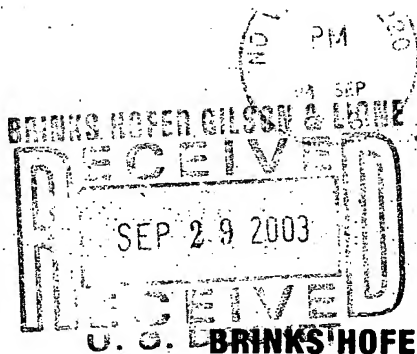
Items Mailed: **Request for Filing a Continuing Patent Application (2), 34**
page Specification, Submission of Formal Drawings, 10 sheets Formal
Drawings, Preliminary Amendment, Declaration, Information Disclosure
Statement, Form PTO 1449, check for \$768 and return postcard.

BRINKS HOFER GILSON & LIONE

By: Jonathan P. Taylor, Ph.D., Reg. No. 48,338

Date of Mailing: **September 17, 2003**

Express Mail EL835293200US



Carlsbad Caverns National Park, NM

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P. O. BOX 10395

CHICAGO, ILLINOIS 60610

